

2005 02/22 18:55 FAX 858 720 5125

MOFO-SD

008/010

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, MS Issue Fee, facsimile No. (703) 746-4000, on the date shown below.

Dated: February 22, 2005

Signature:

(Rebecca McElroy)

Docket No.: 524412000200  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

Lee A. BULLA, Jr. et al.

Application No.: 09/696,801

Filed: October 25, 2000

For: GENE MINING SYSTEM AND METHOD

Art Unit: 1631

Examiner: Lori A. Clow, Ph.D.

Confirmation # 3203

**APPLICATION FOR PATENT TERM ADJUSTMENT**

MS Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

According to the Notice of Allowance herein, the patentees are not entitled to any adjustment of patent term. However, applicants believe that they are entitled to an extension due to the failure of the Office to issue a patent within three years of the actual filing date of the present application.

The actual filing date of the present application is 25 October 2000. Although there has been no Request for Continued Examination, and no time consumed by an interference, the imposition of a secrecy order or by review of the Board of Appeals. The Notice of Allowance in this case was mailed only on 22 February 2005. Applicants have not requested any delay in processing of this application.

sd-245677

Application No.: 09/696,801

Docket No.: 524412000200

It is not believed that petitions for extensions of time to respond constitute a delay in processing of the application that was requested by the applicant; however, requests extending the time for response to an Office action past 3 months have been minimal.

A two-month extension of time request was attached to the Response to the first Office action filed 23 September 2002.

This was necessitated by the need for an in-person meeting between the undersigned (whose office is in San Diego) and applicants (who reside in Dallas). A Request for an Extension of Time of two months was attached to the Response to a second Office action filed 18 May 2003.

There was no extension of time requested in a Response to a third Office action filed 26 November 2003.

There was no extension of time requested in a Response to an Office action filed 13 May 2004.

Thus, even if the request associated with the Response filed 18 May 2003 is considered a delay in processing requested by the applicant, the discrepancy between the three years from the filing date, which ended 25 October 2003 and the issue date, which is at present unknown, but is subsequent to 22 February 2005 could be reduced only by 2 months.

Thus, applicants believe that they are entitled to an extension of patent term of at least 16 months and the interval between 22 February and the issue date, depending on the date of issue.

Recalculation of the expiration date of the patent to issue herein based on this calculation is thus requested.

sd-245677

2

Application No.: 09/696,801

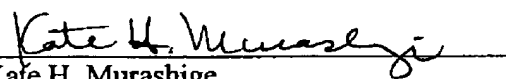
Docket No.: 524412000200

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket No. 524412000200.

Respectfully submitted,

Dated: February 22, 2005

By:

  
Kate H. Murashige  
Registration No. 29,959

Morrison & Foerster LLP  
3811 Valley Centre Drive,  
Suite 500  
San Diego, California 92130-2332  
Telephone: (858) 720-5112  
Facsimile: (858) 720-5125

sd-245677

3